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C O N F I D E N T I A L MONROVIA 1061

FROM NORDQUIST, FOR D/LOS

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS: CONSULTATIONS WITH LIBERIA

1. SUMMARY: LIBERIA SEES COMMITTEE I DEEP SEABED NEGOTIATION AS PRINCIPAL STUMBLING BLOCK TO SUCCESSFUL LOS TREATY. THEY AGREE WITH MOST US VIEWS ON NAVIGATIONAL ISSUES AND ESPECIALLY SUPPORT DISPUTE SETTLEMENT. END SUMMARY.

2. ON FEBRUARY 21, DEPARTMENT LOS REPRESENTATIVE NORDQUIST AND EMBASSY POLITICAL CONSELOR PENBERTHY MET WITH COUNSELLOR JOHN W. TOGBA II, MFA; SOLICITOR GENERAL ROLAND BARNES, MINISTRY OF JUSTICE; BEN COLLINS, MINISTRY OF JUSTICE; AND PAT FARRELL, INTRUSCO. TOBA HEADED LIBERIAN SIDE NOT DUE TO RANK BUT APPARENTLY BECAUSE HE WAS FROM MFA. IT IS NOT CLEAR IF BARNES IS IN DISFAVOR. AT VERY LEAST, HE IS UNDER SOME RESTRAINTS. NEVERTHELESS, MOST TALKING WAS DONE BY BARNES, ALTHOUGH TOGBA HAD OBVIOUSLY PREPARED HIMSELF AND ASKED GOOD QUESTIONS. TOGA AND

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COLLINS WILL BE ON LIBERIAN LOS DELEGATION TO GENEVA. BARNES'S

PARTICIPATION IS STILL UNCERTAIN, ALTHOUGH WE DID WHAT WE COULD TO ENCOURAGE IT.

3. BARNES STATED THAT MAJOR STUMBLING BLOCK TO TREATY WAS DIFFERENCES OVER DEEP SEABED, IN PARTICULAR BASIC CONDITIONS OF EXPLOITATION. HE STRONGLY URGED US TO COME TO GENEVA WITH FLEXIBILITY REGARDING WHETHER OR NOT DETAILED MINING CODE NEEDED TO BE WRITTEN INTO LOS TREATY. NORDQUIST NOTED RELATIONSHIP BETWEEN CONFIDENCE IN ORGANS OF AUTHORITY PROVIDING GUARANTEED ACCESS AND SECURITY OF INVESTMENT AND AMOUNT OF DISCRETION LEFT FOR SUBSEQUENT DETERMINATION. BARNES SHOWED US SIDE SOVIET DRAFT OF ARTICLE 9 THAT WAS INFORMALLY DISTRIBUTED AT CARACAS AND SAID THIS PROPOSAL WAS UNACCEPTABLE TO LIBERIA. PARA 4 OF SOVIET PAPER PROVIDED FOR LICENSING OF SOCIALIST VESSELS AS IF THEY WERE PRIVATE ENTITIES. BARNES SAID LIBERIA SUPPORTED GROUP OF 77 POSITION ON PROTECTING DEVELOPING PRODUCING STATES FROM ADVERSE ECONOMIC IMPACT OF DEEP SEABED MINING. AFTER DISCUSSION OF WHAT STATES WERE ACTUALLY PROTECTED, BARNES CONCLUDED THAT SOME FORM OF COMPENSATION SHOULD BE COMPREHENDED IN TREATY FOR STATES ACTUALLY ADVERSELY AFFECTED. IT WAS CLEAR THAT LIBERIANS EXPECT AUTHORITY TO LICENSE PRIVATE COMPANIES ALTHOUGH THEY WOULD LIKE TO SEE INTERNATIONAL COMMUNITY DIRECTLY INVOLVED IN SOME WAY. TOGBA ASKED ABOUT STATUS OF DEEP SEABED MINING LEGISLATION IN US. HE ALSO ASKED ABOUT CONSTITUTIONAL PROBLEMS OF PROVISIONAL APPLICATION (LIBERIAN CONSTITUTION MODELLED ON US). NORDQUIST RESPONDED THAT SOME FORM OF ASSENT FROM BOTH HOUSES OF CONGRESS WOULD PROBABLY BE NECESSARY TO GIVE DOMESTIC LEGAL EFFECT TO PROVISIONAL APPLICATION SECTIONS OF LOS TREATY.

4. BARNES ASKED IF US HAD TAKEN A POSITION WITH RESPECT TO SITE OF SEABED AUTHORITY. AFTER BEING TOLD US HAD MADE POLITE NON-COMMITMENT TO JAMAICA, BARNES INDICATED LIBERIA WAS INTERESTED IN POSSIBILITY OF HOSTING SITE. US SIDE PROMISED TO CONVEY THAT INTEREST TO WASHINGTON.

5. ON NAVIGATION ISSUES LIBERIANS SEEM TO HOLD VIEWS SIMILAR TO US. THEY SUPPORT FREE PASSAGE IN INTERNATIONAL STRAITS AND FREEDOM OF NAVIGATION AND LAYING OF PIPELINES AND CABLES BEYOND 12-MILE TERRITORIAL SEA IN 200 MILE EXCLUSIVE ECONOMIC
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ZONE. FARRELL STATED THAT THEY REALLY WANTED NO MORE ACTION ON POLLUTION MATTERS THAN ALREADY PROVIDED IN IMCO CONVENTIONS. HE STATED NEW SOLAS STANDARDS, FOR EXAMPLE, HAD NOT BEEN GIVEN ADEQUATE OPPORTUNITY TO WORK.

6. LIBERIA SUPPORTS AFRICAN POSITION ON ENDING NATIONAL JURISDICTION AT 200 MILES, THEREBY LEAVING MAXIMUM FOR COMMON HERITAGE. APPARENTLY THIS POSITION CONVEYED TO AUSTRALIANS WHO

WERE HERE FOR LOS CONSULTATIONS RECENTLY. BARNES SEEMED CONCERNED ABOUT NON-DISTANCE CRITERIA WHICH HE SEEMED TO FEEL COULD NOT BE ADEQUATELY DEFINE AT GREAT DEPTHS. LIBERIA HAS GRANTED NO OFFSHORE PETROLEUM CONCESSIONS AND THEY ARE TRYING TO INTEREST US FIRMS IN UNDERTAKING EXPLORATORY WORK. AS SIDE NOTE, BARNES SEEMED TO FEEL WE SHOULD NOT TRY TO RESOLVE ISLAND DELIMITATION PROBLEMS IN LOS TREATY.

7. AFTER EXPLANATION OF US POSITION ON COASTAL STOCKS, TUNA AND SALMON, LIBERIANS LEFT IMPRESSION THEY HAD NO MAJOR PROBLEMS WITH US VIEWS. THEY SEEMED TO AGREE WITH IDEA OF COASTAL STATE OBLIGATIONS REGARDING OPTIMUM YIELD AND PREFERENTIAL RIGHTS SO LONG AS COASTAL STATES WOULD RECEIVE LICENSE FEES FOR LEFTOVER COASTAL STOCKS TO BE CAUGHT IN 200-MILE ZONE. FARRELL DID ASK IF US POSITION INCLUDED COASTAL STATE OBLIGATION NOT TO OVERFISH ITS OWN FISHING GROUNDS. TOGBA WAS INTERESTED IN APPLICATION OF FISHERMEN'S PROTECTIVE ACT TO CEP COUNTRIES. TOGBA ALSO INQUIRED ABOUT CONGRESSIONAL ACTION ON S. 1988 AND COMMENTED THAT OTHERS COULD LIKEWISE TAKE UNILATERAL ACTION ON MATTERS OF CONCERN TO THEM.

8. BARNES WOULD LIKE TO PLAY A MAJOR ROLE IN CREATION OF DISPUTE SETTLEMENT MACHINERY FOR LOS TREATY. HE HOPES TO ATTEND WEEKEND MEETING PLANNED FOR GENEVA.

9. BARNES CLOSED MEETING BY STATING THAT WHILE CARACAS WAS NOT A TOTAL SUCCESS, GENEVA HAD TO RESULT IN GENERAL AGREEMENT ON BASIC STRUCTURE OF TREATY. HE REITERATED THAT COMMITTEE I WAS PRINCIPAL ROADBLOCK TO SETTLEMENT AND ONCE AGAIN URGED US NOT TO INSIST ON PUTTING COMPLICATED DETAILS ABOUT HIGHLY SPECULATIVE FIELD OF DEEP SEABED MINING INTO COMPREHENSIVE LOS TREATY. HE ALSO COUNSELED US TO AVOID DOCTRINAIRE DEBATE AND TO CONCENTRATE ON EQUITABLE ACCOMMODATION TO BRIDGE GAP.
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10. COMMENT: LIBERIANS LISTEN WITH OPEN MIND TO US VIEWS ALTHOUGH THEY ARE ALWAYS SENSITIVE TO OAU PRESSURES. THEY SEEM TO RECOGNIZE THEIR UNIQUE REQUIREMENTS AS A FLAG OF CONVENIENCE STATE (WHICH PROVIDES ABOUT 10 PERCENT OF THEIR ANNUAL REVENUE). THEY APPARENTLY DEFER TO THEIR AMERICAN ADVISERS FROM INTERNATIONAL TRUST COMPANY ON HOW TO PROTECT THEIR COMMERCIAL NAVIGATION INTERESTS. THIS CAN BE HELPFUL; FOR EXAMPLE, FARRELL COMMENTED THAT COMMERCIAL AND MILITARY NAVIGATIONAL NEEDS WERE INSEPARABLE AND EXPRESSED CONCERN ABOUT OPENING DOOR ALLOWING FOR DISTINCTIONS TO BE MADE BY COASTAL STATES, PARTICULARLY IN STRAITS. HE DID NOT WANT STRAIT STATES TO BECOME TOLL-KEEPERS AND POINTED OUT THAT LIBERIAN FLAG VESSELS CARRY 80 PERCENT OF US IMPORTED PETROLEUM. OVERALL, LIBERIANS SEEM TO VIEW THEMSELVES AS CONSTRUCTION MODERATES ON LOS

WHO CAN MEDIATE BETWEEN WESTERN NATIONS AND BLACK AFRICANS.
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